

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ROBERT SMITH Jr.,

Plaintiff,

v.

C/O KOLA *et al.*,

Defendants.

Case No. C07-5231 FDB

ORDER ADOPTING REPORT AND
RECOMMENDATION REVOKING *IN*
FORMA PAUPERIS STATUS

This matter comes before the Court on the Report and Recommendation of the Magistrate Judge that Plaintiff's *in forma pauperis* status be revoked because he has received more than three formal strikes pursuant to 28 U.S.C. §1951(g). Plaintiff has filed an objection to the Report and Recommendation. The Court is unpersuaded by Plaintiff's argument. This Court has already considered the propriety of the strikes entered against Plaintiff and revoked his *in forma pauperis* status in a previous proceeding. See Smith V. State of Washington 07-CV-5135 FDB Dkt. #29. The same rule applies to his instant action.

The Court, having reviewed, the Report and Recommendation of Magistrate Judge J. Kelley Arnold, objection to the Report and Recommendation¹, and the remaining record, does hereby find

¹Plaintiff has also requested a 30 day extension of time to file additional objection to the Report and Recommendation. However, as indicated in the Report and Recommendation, it is undisputed that Plaintiff has more than three formal strikes and is not under imminent danger of serious physical injury. Thus, any extension of time to respond would necessarily be fruitless on the issue.


1 and ORDER:

2 (1) The Court adopts the Report and Recommendation;

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4 (2) The Plaintiff's *in forma pauperis* status is **REVOKED**. Plaintiff has thirty days from
5 the date of this order to pay the full \$350.00 dollar filing fee, less any amount of funds
already collected. If the filing fee is not received in thirty days, the Clerk's office is
instructed to dismiss this action without prejudice.

6 The Clerk is directed to send copies of this Order to Plaintiff, and to the Hon. J. Kelley
7 Arnold and note a date on Judge Arnold's calendar thirty days from today so this action can be
8 tracked.

9 DATED this 29th day of October, 2007.

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14 FRANKLIN D. BURGESS
15 UNITED STATES DISTRICT JUDGE
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